

§ 590.313

10 CFR Ch. II (1–1–06 Edition)

or other documents prior to the oral presentation. The Assistant Secretary or presiding official also may delineate the issues that are to be considered at the oral presentation and place appropriate limitations on the number of intervenors who may participate if two or more intervenors have substantially like interests.

(c) Oral presentations shall be conducted in an informal manner with the Assistant Secretary or the presiding official and other decisional employees presiding as a panel. The panel may question those parties making an oral presentation. Cross-examination by the parties and other more formal procedures used in trial-type hearings will not be available in oral presentations. The oral presentation may be, but need not be, made by legal counsel.

(d) Oral presentations shall be recorded, and the transcript shall be made part of the official record of the proceeding and available to the public.

§ 590.313 Trial-type hearings.

(a) Any party may file a motion for a trial-type hearing for the purpose of taking evidence on relevant and material issues of fact genuinely in dispute in the proceeding. The motion shall identify the factual issues in dispute and the evidence that will be presented. The party must demonstrate that the issues are genuinely in dispute, relevant and material to the decision and that a trial-type hearing is necessary for a full and true disclosure of the facts. The Assistant Secretary or presiding official shall grant a party's motion for a trial-type hearing, if the Assistant Secretary or presiding official determines that there is a relevant and material factual issue genuinely in dispute and that a trial-type hearing is necessary for a full and true disclosure of the facts.

(b) In trial-type hearings, the parties shall have the right to be represented by counsel, to request discovery, to present the direct and rebuttal testimony of witnesses, to cross-examine witnesses under oath, and to present documentary evidence.

(c) The Assistant Secretary or presiding official upon his or her own initiative or upon the motion of any party may consolidate any proceedings in-

volving common questions of fact in whole or in part for a trial-type hearing. The Assistant Secretary or presiding official may also place appropriate limitations on the number of intervenors who may participate if two or more intervenors have substantially like interests.

(d) The Assistant Secretary or presiding official may make such rulings for trial-type hearings, including delineation of the issues and limitation of cross-examination of a witness, as are necessary to obtain a full and true disclosure of the facts and to limit irrelevant, immaterial, or unduly repetitious evidence.

(e) At trial-type hearings, the Assistant Secretary or presiding official, or any other decisional employee directed by the Assistant Secretary or presiding official, may call witnesses for testimony or presenting exhibits that directly relate to a particular issue of fact to be considered at the hearing. The Assistant Secretary or presiding official, or any other decisional employee directed by the Assistant Secretary or presiding official, may also question witnesses offered by the parties concerning their testimony.

(f) Trial-type hearings shall be recorded, and the transcript shall be made part of the official record of the proceeding and available to the public.

§ 590.314 Presiding officials.

(a) The Assistant Secretary may designate a presiding official to conduct any stage of the proceeding, including officiating at a conference, oral presentation, or trial-type hearing. The presiding official shall have the full authority of the Assistant Secretary during such proceedings.

(b) A presiding official at a conference, oral presentation, or trial-type hearing shall have the authority to regulate the conduct of the proceeding including, but not limited to, determination of the issues to be raised during the course of the conference, oral presentation, or trial-type hearing, administering oaths or affirmations, directing discovery, ruling on objections to the presentation of testimony or exhibits, receiving relevant and material

Department of Energy

§ 590.401

evidence, requiring the advance submission of written testimony and exhibits, ruling on motions, determining the format, directing that briefs be filed with respect to issues raised or to be raised during the course of the conference, oral presentation or trial-type hearing, questioning witnesses, taking reasonable measures to exclude duplicative material, and placing limitations on the number of witnesses to be called by a party.

§ 590.315 Witnesses.

(a) The Assistant Secretary or presiding official may require that the direct testimony of witnesses in trial-type hearings be submitted in advance of the hearing and be under oath, and in written form.

(b) Witnesses who testify in trial-type hearings shall be under oath or affirmation before being allowed to testify.

(c) Witnesses subpoenaed pursuant to § 590.306 shall be paid the same fees and mileage as paid for like services in the District Courts of the United States.

(d) Witnesses subpoenaed pursuant to § 590.307 shall be paid the same fees and mileage as paid for like services in the District Court of the United States.

[54 FR 53531, Dec. 29, 1989; 55 FR 14916, Apr. 19, 1990]

§ 590.316 Shortened proceedings.

In any proceeding where, in response to a notice of application or notice of procedures, if applicable, no party files a motion requesting additional procedures, including the right to file written comments, or the holding of a conference, oral presentation, or trial-type hearing, or where the Assistant Secretary determines that such requested additional procedures are not required pursuant to §§ 590.310, 590.311, 590.312 and 590.313, the Assistant Secretary may issue a final opinion and order on the basis of the official record, including the application and all other filings. In any proceeding in which the Assistant Secretary intends to deny the application or grant the application with the attachment of material conditions unknown to, or likely to be opposed by, the applicant, solely on the basis of the application and responses to the notice of application or notice of

procedures, if applicable, without additional procedures, the Assistant Secretary shall advise the parties in writing generally of the issues of concern to the Assistant Secretary upon which the denial or material conditions would be based and provide them with an opportunity to request additional procedures pursuant to §§ 590.310, 590.311, 590.312 and 590.313.

§ 590.317 Complaints.

(a) Any person may file a complaint objecting to the actions by any other person under any statute, rule, order or authorization applicable to an existing import or export authorization over which FE has jurisdiction. No particular form is required. The complaint must be filed with FE in writing and must contain the name and address of the complainant and the respondent and state the facts forming the basis of the complaint.

(b) A complaint concerning an existing import or export authorization shall be served on all parties to the original import or export authorization proceeding either by the complainant or by FE if the complainant has made a good faith effort but has been unable to effect service.

(c) The Assistant Secretary may issue an order to show cause under § 590.401, or may provide opportunity for additional procedures pursuant to §§ 590.310, 590.311, 590.312, or § 590.313, in order to determine what action should be taken in response to the complaint.

Subpart D—Opinions and Orders

§ 590.401 Orders to show cause.

A proceeding under this part may commence upon the initiative of the Assistant Secretary or in response to an application by any person requesting FE action against any other person alleged to be in contravention or violation of any authorization, statute, rule, order, or law administered by FE applicable to the import or export of natural gas, or for any other alleged wrong involving importation or exportation of natural gas over which FE has jurisdiction. Any show cause order issued shall identify the matters of interest or the matters complained of